

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

OLIVER C. LOADHOLT,

Petitioner

VS.

FRED BURNETTE, WARDEN,

Respondent

NO. 5:08-CV-147 (CAR)

**PROCEEDINGS UNDER 28 U.S.C. §2254
BEFORE THE U. S. MAGISTRATE JUDGE**

RECOMMENDATION

Before the court is petitioner OLIVER C. LOADHOLT's motion seeking summary judgment. Tab #17. Respondent FRED BURNETTE was ordered to and did timely file a response to the respondent's motion. Tab #22.

The undersigned has this day entered a recommendation denying the respondent's MOTION TO DISMISS and scheduling a hearing to ascertain the current status of petitioner's state proceedings. In light of this recommendation, and noting that summary judgment motions are not favored in habeas corpus proceedings, and further noting that further factual inquiry will be forthcoming, IT IS RECOMMENDED that petitioner's motion (Tab #17) be **DENIED**.

Pursuant to 28 U.S.C. §636(b)(1), the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom this case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO RECOMMENDED this 5th day of MARCH, 2009.



A handwritten signature in black ink, which appears to read "Claude W. Hicks, Jr." The signature is stylized and cursive.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE